extinguished and he receives no compensation such as arises from cases of eminent domain or a sale in partition. The inchoate right of dower is treated as some sort of present interest, entitled to protection in equity, in *Brown* v. *Brown,* 82 N. J. Eq. 40 (against a possible bona fide purchaser without notice from trustee), and in *Brown* v. *Brown,* 94 S. Car. 492 (against waste).

FISH—MUSSELS—PROPERTY OF STATE.—In a suit by the owner of the bed of a non-navigable stream for the conversion of mussel shells taken from the bed of said stream by defendants, the plaintiff claimed the mussels were part of the realty. *Held,*—A mussel, having powers of locomotion, is a fish *ferae naturae* within the meaning of the Rev. Stat. Mo. 1909, Sec. 6508, and the owner of the bed of the stream cannot acquire title to them, title being always in the state. *Gratz* v. *McKee et al,* (C. C. A., 8th Circ.) 258 Fed. 335.

Thus mussels in fresh waters seem to be included by an extension of the law relative to salt water shell-fish, which rules that shell-fish, such as oysters and clams, in their natural state, are classified as *ferae naturae,* and their ownership is in the state in its sovereign capacity, *State* v. *Harub,* 95 Ala. 176, —though where planted in a place where they would not naturally grow, and their location well marked, they partake of the nature of *ferae domitae,* and are the subjects of private ownership, *State* v. *Taylor,* 27 N. J. L. 117, 72 Am. Dec. 347; *People* v. *Morrison,* 194 N. Y. 175. In England, mussels in a mussel bed granted by an order of the Board of Agriculture and Fisheries, sufficiently known and marked out as such, are the absolute property of the grantees of the order. Sea Fisheries Act, 1868, 31-32 Vict., c 45, ss 51, 52, 53. Likewise in this country some states may convey or lease beds for cultivating shell-fish to individuals, and the grantee or lessee gets an exclusive right to cultivate shell-fish on the bed, protected by equity, *Sequim Bay Canning Co.* v. *Bugge,* 49 Wash. 127. But while power of locomotion, which is mentioned in the principal case, may bring mussels within the class of swimming fish, which are *ferae naturae,* still it would seem more logical that viewed as an article of commerce, due to the similarity of its organism, habits, and mode of capture to those of other shell-fish subjects of commerce, the law relative to property rights in mussels should follow the trend of decisions declaring property rights in shell-fish, such as oysters and clams. Thus upon principle the law applicable to mussels in planted beds should be the same as that which is applied to oysters and clams in planted beds.

JOINT ADVENTURERS — BREACH OF CONFIDENCE — RESCISSION. — The three plaintiffs and the defendant MacDonald purchased an undivided four-fifths in defendant Oxnam's mine. Later, plaintiffs discovered that defendant MacDonald had agreed secretly with Oxnam that if the project was not profitable at the end of two years, MacDonald should have the right to reconvey his undivided one-fifth to Oxnam. *Held,* that MacDonald's conduct amounted to a constructive fraud to which Oxnam was a party and that the plaintiffs had a right to rescind.—*Menefee et al.* v. *Oxnam et al.* (Cal., 1919), 183 Pac. 379.

The rule is universal that no one having duties of a fiduciary character shall be allowed to enter into engagements in which he has, or can have, a

personal interest, conflicting, or which possibly may conflict, with the interest of those whom he is bound to protect. *Glover* v. *Ames,* (C. C.) 8 Fed. 351. Accordingly, it is held that the fiduciary relationship between cotenants of land is such that it is not consistent with good faith for either of them to purchase an outstanding adverse title. *Van Horne v. Fonda,* 5 Johns. Ch. (N. Y.) 388. (For criticism of this doctrine see 9 HARV. LAW REV. 427.) The same doctrine has also been extended to the case of a remainderman purchasing a tax title thereby attempting to exclude the other remainderman. Held that this was a breach of faith and not allowable. *Johns* v. *Johns,* 93 Ala. 239. The law will not permit an agent to place himself in a situation in which he might be even tempted by his own private interests to disregard the interests of his principal. *People ex rel. Pluger et al.* v. *Township Board,* 11 Mich. 222; MECHEM, AGENCY, Sec. 455. Nor will a partner be allowed to gain a secret advantage or enter into any transaction in any way adverse to the partnership interests. *Nelson* v. *Matsch,* 38 Utah 122, Ann. Cas. 1912 D, 1242. Therefore, it seems very natural for courts to apply a similar line of reasoning to cases of joint adventures, even though the essentials of a cotenancy, agency, or partnership are not present. The tendency of modern decisions is to regard the rights of joint adventurers, *inter se,* as controlled practically by the law of partnerships. 15 RULING CASE LAW 500. The court in the principal case said that it is immaterial whether the plaintiffs and MacDonald were partners in the strict sense. Persons engaged in a joint adventure, or about to assume such a relation, owe to each other the utmost good faith and will not be permitted to enjoy any unfair advantage. Where any abuse of that relation is discovered the complaining party is entitled to relief, whether any actual damage be proved or not. "The question is not whether the breach of confidence has resulted in profit to the unfaithful coadventurer, or whether it has resulted in injury to his joint adventurers, but whether there has been a breach of confidence on the part of the fiduciary." The mere making of a secret agreement by one of the joint adventurers is such a breach of faith as amounts to constructive fraud and will entitle the coadventurers either to rescind the contract (*Noble* v. *Fox,* 35 Okla. 70) or to maintain an action for damages for fraud and deceit (*Page* v. *Parker,* 43 N. H. 363) or to have the defendant account to his coadventurers (*Kennah* v. *Huston,* 15 Wash. 275).

LANDLORD AND TENANT—CONSTRUCTIVE EVICTION—VERMIN.—At the expiration of a period of two years of an apartment lease the premises became infested by cockroaches, which, after notice, the landlord unsuccessfully attempted to eradicate, whereupon defendants moved out. In an action for rent, *held,* defendants had not been exonerated from liability. *Hopkins* v. *Murphy* (Mass., 1919), 124 N. E. 252.

The case turns on whether or not the presence of the vermin constituted an act of constructive eviction. Crosby, J., in disposing of this contention says "There is nothing to indicate the plaintiff was responsible for the presence of the insects or that he failed in any duty which he owed to the defendant." In this he touched the real issue. The cases almost without dis-